



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2015-0568]

RIN 1625-AA08

Special Local Regulation; Southern California Annual Marine Events for the San Diego Captain of the Port Zone;

San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement date of the special local regulation on the navigable waters of San Diego Bay, San Diego, California in support of the annual San Diego Maritime Museum Festival of Sail. This temporary final rule adjusts the dates for the established special local regulations listed in 33 CFR 100.1101 (table 1, item 15). This temporary interim rule provides public notice and is necessary to ensure the safety of participants, crew, spectators, participating vessels, and other vessels and users of the waterway.

Unauthorized persons and vessels are prohibited from entering into, transiting through, or anchoring within the regulated area unless authorized by the Captain of the Port (COTP), or his designated representative. The Coast Guard requests public comments on the temporary final rule.

DATES: This rule is effective from 9 a.m. on September 4, 2015 through 7 p.m. September 7, 2015. This rule will be enforced from 9 a.m. until 7 p.m. September 4 through September 7, 2015. Public comments must be received by [INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments using *one* of the listed methods, and see SUPPLEMENTARY INFORMATION for more information on public comments.

- *Online* - <http://www.regulations.gov> following website instructions.
- *Fax* - 202-493-2251.
- *Mail or hand deliver* - Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Hand delivery hours: 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202-366-9329).

Documents mentioned in this preamble are part of docket

[USCG-2015-0568]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Randy Pahilanga, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7656, e-mail D11-PF-MarineEventsSanDiego@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
TFR	Temporary Final Rule
BNM	Broadcast Notice to Mariners
LNM	Local Notice to Mariners
COTP	Captain of the Port

A. Public Participation and Comments

We encourage you to submit comments (or related material) on this temporary final rule. We will consider all submissions and may adjust our final action based on your comments. Comments should be marked with docket number USCG-2015-0568 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the *Federal Register* Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ x 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this notice, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following

the website's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under ADDRESSES) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

B. Regulatory History and Information

The San Diego Maritime Museum Festival of Sail is an annual reoccurring event listed in 33 CFR 100.1101 (table 1, item 15) for Southern California annual marine events for the San Diego Captain of the Port Zone. Special local regulations exist for the marine event to allow for use of the San Diego Bay waterway to allow for three days of events. For 2015, the event is occurring over four days. This temporary final rule is therefore necessary to ensure that the same measures normally provided are in place for all four days.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing a NPRM. The publishing of an NPRM would be impracticable since immediate action is needed to minimize potential danger to the participants and the public during the event. The danger posed by the volume of commercial, public and private recreational marine traffic in San Diego bay makes special local regulations necessary to provide for the safety of participants, event support vessels, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is important to have these regulations in effect during the event. The area covered by the special local regulation should have negligible impact on vessel movement. The Coast Guard will issue a broadcast notice to mariners (BNM) to advise vessel operators of navigational restrictions. In addition, Coast Guard will also advertise notice of the event and event date changes via local notice to mariners (LNM) report. For the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date would be contrary to the public interest, because immediate action is needed to ensure the safety of

the event. However, notifications will be made to users of the affected area near San Diego Bay, San Diego, California via marine information broadcast and a local notice to mariners.

Furthermore, we are providing an opportunity for subsequent public comment and, should public comment show the need for modifications to the special local regulations during the 2015 event, we may make those modifications and will provide actual notice of those modifications to the affected public.

C. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1233, which authorize the Coast Guard to establish, and define special local regulations. The Captain of the Port San Diego is establishing a special local regulation for the waters of San Diego Bay, San Diego, California to protect event participants, spectators and transiting vessels. Entry into this area is prohibited unless specifically authorized by the Captain of the Port San Diego or designated representative.

D. Discussion of the Final Rule

The San Diego Maritime Museum Tall Ship Festival of Sail is an annual event held in the early part of September on San Diego Bay, San Diego, California.

The regulation listing annual marine events within the San Diego Captain of the Port Zone and special local regulations is 33 CFR 100.1101. Table 1 to § 100.1101 identifies special local regulations within the COTP San Diego Zone. Table 1 to § 100.1101 at item "15" describes the enforcement date and regulated location for this marine event.

The date listed in the Table 1 to § 100.1101 has the marine event occurring over three days in September. However, this temporary rule changes the marine event date to September 4 through September 7, 2015 to reflect the actual four days of the event.

The Coast Guard is establishing a temporary special local regulation for a marine event on San Diego Bay that will be effective from 9 a.m. on September 4, 2015 through 7 p.m. September 7, 2015 and will be enforced daily from 9 a.m. to 7 p.m. on September 4 through September 7, 2015.

The Coast Guard will temporarily suspend the regulation listed in Table 1 to § 100.1101 item "15", and insert this temporary regulation in Table 1 to § 100.1101, at item "19. This change is needed to accommodate the sponsor's event plan. No other portion of Table 1 to § 100.1101 or other provisions in Table 1 to § 100.1101 shall be affected by this regulation.

The special local regulations are necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway for this event that will consist of a tall ship parade and mock cannon battle demonstrations. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this regulated waterway unless authorized by the Coast Guard Captain of the Port (COTP), or his designated representative, during the proposed times. Before the effective period, the Coast Guard will publish information on the event in the weekly LNM.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and

Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size, location, and the limited duration of the marine event and associated special local regulations. Optional waterway routes exist to allow boaters to transit around the marine event area, without impacting the festival. Additionally, to the maximum extent practicable, the event sponsor will assist with the movement of boaters desiring to transit the area throughout the four days.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners

or operators of vessels intending to transit or anchor in the impacted portion of San Diego Bay, California from 9 a.m. to 7 p.m. on September 4 through September 7, 2015.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the special local regulations would apply to a broad portion of San Diego, traffic would be allowed to pass around the zone or through the zone with the permission of the COTP, or his designated representative. The event sponsor will also be advertising the event. Before the effective period, the Coast Guard will publish event information on the internet in the weekly LNM marine information report and will provide a BNM via marine radio during the event.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a)

and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards.

Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of marine event special local regulations on the navigable waters of San Diego Bay. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

2. In § 100.1101, in Table 1 to § 100.1101, suspend item "15" and add temporary item "19" to read as follows:

§100.1101 Southern California Annual Marine Events for the San Diego Captain of the Port Zone.

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Table 1 to §100.1101

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19. San Diego Maritime Museum Tall Ship Festival of Sail	
Sponsor	San Diego Maritime Museum.
Event Description	Tall ship festival.
Date	September 4 through September 7, 2015.
Location	San Diego Bay, CA.

Regulated Area	The waters of San Diego Bay Harbor.
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Dated: July 16, 2015

J. S. Spaner

Captain, U.S. Coast Guard

Captain of the Port San Diego.

[FR Doc. 2015-18764 Filed: 7/29/2015 08:45 am; Publication

Date: 7/30/2015]